



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

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HUMAN RESOURCES  
DIVISION

MAR 28 1983

Miss Dorothy L. Starbuck  
Chief Benefits Director  
Department of Veterans Benefits  
Veterans Administration

Dear Miss Starbuck:

Subject: Veterans Administration's Practices  
for Allowing Educational Benefit  
Payments for Courses Not Successfully  
Completed (GAO/HRD-83-47)

The General Accounting Office has reviewed the Veterans Administration's (VA's) implementation of the legislative provision which prohibits payment of educational benefits to students for courses for which the grades assigned are not used in computing the requirements for graduation, including courses from which the students withdraw, unless there are mitigating circumstances (38 U.S.C. 1780(a)(4)).

We found that students received educational benefits to which they may not have been entitled. VA was accepting as mitigating circumstances nearly all statements submitted by students. The statements often did not indicate what control the students had over the events described or how the events affected the students' ability to successfully complete the courses.

As a result of our discussions with VA officials, VA took action to clarify when mitigating circumstances should be accepted and to increase the requirements for supporting evidence. VA's action should, if properly implemented, substantially correct the situation.

These matters are discussed in more detail below.

BACKGROUND

Because of program abuse detected in the mid-1970s, the "Veterans' Education and Employment Assistance Act of 1976" (Public Law 94-502) prohibits educational benefit payments for

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any course in which the grade assigned was not used in computing graduation requirements (nonpunitive grade), including courses from which the student withdraws, unless there are mitigating circumstances. Before the enactment of Public Law 94-502, a student could enroll in an institution, never attend classes, and then withdraw or receive nonpunitive grades without loss of VA educational benefits.

In enacting the mitigating circumstances provision, Congress recognized that there would be some situations where payment would be warranted even though there was a lack of academic progress. Neither the law nor its legislative history specify what reasons should be accepted as mitigating circumstances. The legislative history indicates that VA should prevent abuse but at the same time have compassion.

#### OBJECTIVE, SCOPE, AND METHODOLOGY

We made our review to determine how VA was implementing the mitigating circumstances provision. At VA's St. Paul, Minnesota and San Francisco, California Regional Offices we screened randomly selected files of students enrolled at colleges and universities who received educational benefit payments in May 1982 under chapter 34 and 35 of U.S. Code, Title 38. We made a detailed review of a file if the student was assigned a nonpunitive grade (including withdrawals) and the number of credits involved affected the amount of educational benefits. Our review covered the enrollment period September 1, 1981 through August 31, 1982. Once a file was selected for review, we looked at the student's entire history of educational benefits--not just that enrollment period. At St. Paul, we screened 509 files and made a detailed review of 94. At San Francisco we screened 585 files and made a detailed review of 100.

We interviewed officials at VA headquarters and at the St. Paul and San Francisco VA Regional Offices, officials at the Minnesota VA-State approving agency, and registrars of three approved colleges in Minnesota.

We performed our review in accordance with generally accepted government auditing standards.

We met with VA headquarters officials prior to the completion of our field work and briefed them on the status of our

work.<sup>1/</sup> These officials agreed to take action to ensure that VA's regional offices accepted only valid cases of mitigating circumstances. Therefore, we did not attempt to develop a statistically valid random sample that would be projectable to all students receiving VA educational benefits.

VA DID NOT REQUIRE SUFFICIENT  
JUSTIFICATION BEFORE ACCEPTING  
MITIGATING CIRCUMSTANCES

Veterans received educational benefits to which they may not have been entitled. VA accepted about 90 percent of the statements submitted for failure to successfully complete courses. The submissions often did not show what control the students had over the events described or how the events affected their pursuit of the courses. Supporting evidence was rarely provided.

Mitigating Circumstances Provisions

VA's education procedures manual defines mitigating circumstances as those which directly hinder a student's pursuit of a course and are judged to be out of the student's control. It lists some general categories including but not limited to (1) serious illness of the student or serious illness or death in the student's immediate family, (2) immediate family or financial obligations which require a change in terms, hours, or place of employment which precludes pursuit of a course, and (3) active duty military service, including active duty for training.

VA's procedures also provide that withdrawal from a course or receipt of a nonpunitive grade due to unsatisfactory work may be considered under mitigating circumstances if the student can demonstrate good faith pursuit of the course up to the point of withdrawal or completion and the student submits evidence that he or she applied for tutorial aid, or consulted a VA counselor, or consulted a school academic counselor or advisor to try and remedy the unsatisfactory work before withdrawal or completion.

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<sup>1/</sup>We visited the San Francisco regional office after our meeting with VA headquarters' officials. Our findings in San Francisco were similar to our findings in St. Paul.

VA's manual stated:

"The potential abuse of the provision for mitigating circumstances in order to obtain benefits otherwise not payable is obvious. Therefore, if a pattern of withdrawals or terminations develops with mitigating circumstances shown or claimed in each instance, the student will be required to submit a signed statement of circumstances before any further favorable judgments can be made. Other corroborative evidence, such as statements from employers or physicians, may also be required if deemed necessary. For purposes of this provision, a pattern of withdrawals or terminations will exist upon the third occurrence within a term, or third occurrence in consecutive terms."

The quoted procedures could give the impression that whatever statement is submitted should be accepted the first two times and additional information and, perhaps, corroborating evidence should be requested only on the third and subsequent occurrences.

#### VA Accepted Most Mitigating Circumstances Students Submit

About 17 percent of the students in our sample did not successfully complete courses for which they were paid during the period September 1, 1981 through August 31, 1982. While all of these students had the opportunity to submit mitigating circumstances, only about half did so. The acceptance rate of the statements students submitted was about 92 percent at both St. Paul and San Francisco.

Although many statements could be related to the criteria prescribed by VA as acceptable, the statements in the files we examined often did not show that the circumstances directly hindered the student's performance or were beyond the student's control. For example, on 47 occasions students submitted statements claiming that circumstances concerning their employment caused them not to earn the number of credits for which they received benefits. In 24 instances, the statement said nothing more than the student's work schedule changed, the student was looking for a job, the student found a new job, or the student had a conflict between work and school.

In 5 of 28 instances where a student claimed that illness kept him or her from successfully completing the courses, the student's statement did not mention what the illness was. In 15 statements, the student did not say how long the illness lasted and in 13, the student did not mention how the illness kept him or her from successfully completing the courses.

Students provided corroborating evidence for their statements of mitigating circumstances in 11 instances. VA requested the corroborating evidence in 2 of these 11 instances.

We also noted cases where VA accepted students' statements that did not appear to meet VA's criteria for accepting mitigating circumstances. For example, VA accepted the following statements. A student

- withdrew from six credits because of transportation problems, explaining that he lived 30 miles from school and sometimes could not get out of bed in time to catch the bus to school.
- received a five credit nonpunitive grade at the end of a term citing that he was laid off from his job and did not find another job until the term was over. This student did not explain the relationship between being laid off from the job and not earning the credits.
- withdrew from six credits because she took off 2-1/2 weeks of classes to prepare for her wedding and to go on a honeymoon. She stated that she (1) was unable to make up her lost study time, (2) had to make up for lost time at her place of employment, and (3) thought it was better to drop the courses than fail them.
- withdrew from 12 credits because she needed to straighten out some personal business. Also, she said her midterm grade point average was a "C-plus" and if that was what she would earn for a final grade point average that quarter it would hurt her ability to transfer to another school.

She also felt it was in her best interest to take the classes over and earn better grades.

VA adjudicators in the two regional offices we visited said they believed the procedures manual indicated that they should accept almost any reasons the students provided.

#### VA ACTION

We met with VA headquarters' officials on November 4, 1982, and discussed the results of our work at the St. Paul Regional Office. These officials agreed to review the procedures and to determine what changes were needed to ensure that there is adequate justification before mitigating circumstances are determined to exist.

On February 4, 1983, VA sent an advance copy of instructions to its regional offices, for immediate implementation, which (1) set forth changes to the procedures for making decisions regarding mitigating circumstances, and (2) explain the reasons for the changes. The instructions reiterate VA's policy that benefits should not be paid for courses which were not completed or for which nonpunitive grades were received unless caused by unavoidable or unanticipated circumstances. The instructions also note that (1) statements such as "Employer changed work schedule" or "Student was ill," which were commonly being accepted as mitigating circumstances without other information, are insufficient, and (2) VA's previous policy regarding obtaining corroborative evidence if there was a third occurrence of withdrawal or nonpunitive grades was not intended to suggest that mitigating circumstances need not be as serious for the first or second occurrence.

The instructions require that a student who requests consideration of mitigating circumstances

- explain as specifically as possible what events interfered, and how they interfered, with his or her ability to successfully complete the course(s) and provide important dates, e.g. the beginning and ending dates of an illness.
- submit corroborating evidence, such as a doctor's certification, in most cases, even if the student had no prior history of withdrawals or nonpunitive grades.

Examples of what should and should not be considered as mitigating circumstances are included in the instructions. During the first six months of implementation, each case involving mitigating circumstances is to be independently approved by an official above the adjudicator level to ensure that the new instructions are appropriately interpreted.

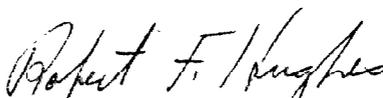
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The problems we identified concerning mitigating circumstances should be substantially corrected if the instructions are properly implemented.

Please advise us of the results of VA's monitoring efforts after a reasonable amount of time has elapsed. We appreciate the courtesy and cooperation extended to our representatives by you and your headquarters and regional staffs and are pleased by your response to our findings and the prompt actions you are taking.

We are sending copies of this report to the House and Senate Committees on Veterans' Affairs.

Sincerely yours,

  
Robert F. Hughes  
Group Director